IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 5702 of 2005

Between:

1 Shali Sab, S/o. Late Bade Miah,
R/o. Panchalingala Village and Mandal, Kurnool District.
2 M. Chand Basha, S/o. Miskin Basha,
A.P.S.R.T.C., Kurnool Depot., R/o. H.No. 41/394, Kothapeta,
Kurnool, Kurnool District.

..... PETITIONERS

AND

1 The District Collector, Kurnool District, Kurnool.
2 The Revenue Divisional Officer, Adoni, Kurnool District.
3 The Mandal Revenue Officer, Gonegandla, Gonegandla Post and Mandal, Kurnool District.
4 Mohd. Omar Sab, S/o. Late Reddy Khader Sab,
Kadivella Village, Yemmigannur Mandal, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction, particularly one in the nature of Writ of Mandamus, declaring the action of the 3rd respondent in removing the name of the 1st petitioner from the revenue records - Adangal/Pahani and inserting the name of the 4th respondent herein in column no. 13 thereof, and in issuing pattadar pass book in the name of the 4th respondent in respect of the land of Ac.2.88 cents in Survey No. 643, situated at Yerrababu Village, Gonegandla Mandal, Kurnool District, without following the procedure laid down in Section 5 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971, and contrary to the judgment reported in 2001(4) A.L.T., Page 337 as illegal, arbitrary and unwarranted, and consequently direct the 3rd respondent to remove the name of the 4th respondent and insert the name of the 1st petitioner in column No. 13 of the Adangal/Pahani relating to the said land, and pass such other order or orders as it may deem fit and proper.

Counsel for the Petitioner : MR. MOHD.GULAM RASOOL
Counsel for the Respondents 1 to 3.: GP FOR REVENUE

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.5702 OF 2005

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ORDER :

The 1st petitioner herein claim to be the absolute owner and possessor of the land to an extent of Ac.2-86 cents situated in Sy.No.643 of Yerrabadu village, Gonigandla Mandal, Kurnool District, having succeeded to the same from his father late Bademiya. It is pleaded that in the revenue records, the name of his father was shown as pattedar in Column No.12 and the name of the petitioner was shown as cultivator and possessor in Column No.13. However, when he obtained a certified copy of the adangal / pahani on 24-02-2005, surprisingly it was found that the name of the petitioner was rounded up in Column No.13 and the name of the fourth respondent herein was inserted. Aggrieved by the same, this writ petition is filed contending that the 3rd respondent – Mandal Revenue Officer is not competent to remove his name in the revenue records without giving any notice to the petitioner as required under Section 5(3) of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short, 'the Act').

When the matter is taken up for consideration, the learned Government Pleader for Revenue appearing for the respondents 1 to 3, at the outset raised an objection sating that since an alternative remedy of Appeal is available under sub-section (5) of Section 5 of the Act, without exhausting the said remedy, the petitioner cannot

maintain this writ petition.

The learned Counsel for the petitioner does not dispute the fact that the 3rd respondent – Mandal Revenue Officer is the Recording Authority under Sub-section (3) of Section 5 of the Act. If that be so, as rightly pointed out by the learned Government Pleader, the petitioner ought to have availed the remedy of appeal for redressal of his grievance.

Though the learned Counsel for the petitioner while referring to sub-Section (6) of Section 5 of the Act, contended that since the Mandal Revenue Officer is competent only to correct the clerical errors, the impugned action is without jurisdiction and therefore notwithstanding the availability of alternative remedy, the petitioner can maintain this writ petition, I am unable to agree. It is true that sub-section (6) of Section 5 of the Act empowers the Mandal Revenue Officer to correct the clerical errors, if any, in the pass books, but it cannot be said that he is not competent to carry out the amendments in the Record of Rights following the procedure prescribed under sub-section (3) of Section 5 of the Act. Hence, the contention of the learned Counsel for the petitioner is without any substance.

Accordingly, the Writ Petition is disposed of granting leave and liberty to the petitioner to work out the appropriate remedy as available under the Act. No costs.

However, having regard to the facts and circumstances of the case, there shall be a direction to the respondents 1 to 3 to maintain Status Quo obtaining as on today as to the nature and possession of the land in question for a period of four weeks from today.

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23rd March, 2005

gbs

To

1 The District Collector, Kurnool District, Kurnool.
2 The Revenue Divisional Officer, Adoni, Kurnool District.
3 The Mandal Revenue Officer, Gonegandla, Gonegandla Post and Mandal, Kurnool District.
4. Two Ccs to G.P. for Revenue, High Court of AP Bldgs, Hyderabad (OUT).

5.2 CD copies